

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

-VS-

**DECISION AND ORDER**

23-CR-6210-CJS-MWP

JENSEN R. GONZALEZ,

Defendant.

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This case was referred by text order of the undersigned, entered December 12, 2023, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B), ECF No. 13. On July 22, 2024, Defendant filed an omnibus motion, ECF No. 36, seeking *inter alia* a dismissal of the indictment on the basis that “the offenses charged, 18 U.S.C. § 922(g)(1) and 18 U.S.C. § 922(k), are unconstitutional on their face and as applied to him under the reasoning of the Supreme Court in *N.Y. State Rifle & Pistol Association v. Bruen*, 597 U.S. 1 (2022) and *United States v. Rahimi*, 144 S. Ct. 1889 (2024).” ECF No. 36. Defendant’s Memorandum of Law in Support of Omnibus Motion for Pretrial Relief, p.2. On November 11, 2024, Magistrate Judge Payson filed a Report and Recommendation (“R&R”), ECF No. 54, recommending that Defendant’s application to dismiss the indictment be denied. On December 18, 2024, Defendant timely filed objections, ECF No. 57, to Magistrate Judge Payson’s R&R. Specifically, Defendant “...objects that historical precedent using dangerousness as a disqualifier does not justify Section 922(g)(1)’s sweeping ban. He further objects that the conclusion that Section 922(k) does not regulate protected conduct ignores the plain text of the Second Amendment and that the

government has not established that Section 922(k) is rooted in the historical tradition of firearm regulation.” ECF No. 57, Objections to Report & Recommendation of November 13, 2024, p.2.

As to Defendant’s application to dismiss the indictment, this Court must, pursuant to 28 U.S.C. § 636(b)(1), make a *de novo* determination of those portions of the R&R to which objections have been made. Upon a *de novo* review of the R&R, the Court accepts the proposed findings and recommendations.

Accordingly, for the reasons set forth in Magistrate Judge Payson’s R&R, ECF No. 54, Defendant’s application to dismiss the indictment is denied.

IT IS SO ORDERED.

DATED: January 16, 2024  
Rochester, New York

ENTER:

/s/ Charles J. Siragusa  
CHARLES J. SIRAGUSA  
United States District Judge